

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
FEBRUARY 12, 2014**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Marie Hickey-AuClaire, Greg Stevens, Noah Bodman, Tim Calaway, Jim Heim, Jeff Larsen, and Ron Schlegel. Gene Shellerud had an excused absence. BJ Grieve and Alex Hogle represented the Flathead County Planning & Zoning Office.

There were 13 people in the audience.

Hickey-AuClaire welcomed new board member Calaway.

**APPROVAL OF
MINUTES**

Schlegel made a motion, seconded by Larsen to approve the December 11, 2013 meeting minutes.

On a roll call vote the motion passed with Calaway abstaining.

**ELECTION OF
OFFICERS**

Schlegel nominated and Heim seconded Hickey-AuClaire for chair.

On a roll call vote the motion passed unanimously.

Heim nominated and Schlegel seconded Larsen for vice-chair.

On a roll call vote the motion passed unanimously.

**PUBLIC
COMMENT
(not related to
agenda items)**

Michael Myers, 170 Voilet Bay Drive, was there on behalf of Bill and Alana Myers who owned Ten Arrows Ranch. He read a letter from his parents which requested the board consider adding wedding venues to the list of SAG-5 conditional uses.

Grant Snell, 1667 Whitefish Stage, Suite 101, attorney of Crowley-Fleck Law Firm, was there on behalf of several clients. He asked the board to consider allowing wedding venues and vacation rentals of less than 30 days in appropriate zones.

**GLACIER
INTERNATIONAL
BUSINESS
PARK
(FPP 13-06)**

A request by Bill Reddig with technical assistance from Montana Mapping Associates, Inc. for Preliminary Plat approval of Glacier International Business Park, a 10 lot commercial Major Subdivision located in the southwest corner formed by Birch Grove Road and US Highway 2 intersection. Primary access to the subdivision would be provided to all lots from internal roads

approaching onto both Birch Grove and US Highway 2, and all lots would be served by an onsite drainfield and a combination of individual and shared wells and an existing public water supply system as approved by MDEQ.

Larsen recused himself from the application.

STAFF REPORT Hogle reviewed Staff Report FPP 13-06 for the Board.

BOARD QUESTIONS Heim and Hogle discussed how many acres the drain field lot was, what further review was required for drain field capacity once a business was in place and if a business could move in which would exceed the capacity of the system.

The board and Hogle discussed which applications went through a process that involved review if there were changes to the original application and how different businesses would affect the septic and water system.

Grieve said the applicant's presentation might address the concerns voiced by the board.

APPLICANT PRESENTATION Rick Breckenridge, 19916 Golden Pine Lane, Montana Mapping Associates, spoke to Heim's concerns of what would trigger a new review for septic, which was also addressed in the DEQ review. He described the septic system, maintenance requirements for the system and the showing of easements on final plat. He addressed public comments which included the mitigation of several concerns dealing with the aquifer which had been submitted. Most of the concerns were addressed with DEQ approval. Two issues addressed by DEQ were the aquifer and storm water drainage treatment. He explained the differences between Pressentine Ranch and the application. He said level two treatment of septage was included in the DEQ approval. The reason they were back before the board after the approval of the previous application in 2008 was due to the length of time it took for DEQ approval, which was three years. He reviewed and discussed at length several other studies which took into consideration the aquifer under the applicants' property and how the concerns were addressed. He also discussed the concern of what the roads on the property would be used for. The roads would be used for deliveries for the businesses, not thoroughfares. He explained the density of the project.

**BOARD
QUESTIONS**

Stevens and Breckenridge discussed the width of a water line easement.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

Hickey-AuClaire clarified the board had enough time to review the written comment for the application.

William Scott Emert, 115 DNJ Lane, was against the application.

Stevens and Emert discussed if the lots off DNJ were part of a subdivision and when that subdivision had been approved.

Sharon Sutherland, PO Box 190375, was against the application.

Randy Grooner, was afraid his property would be flooded by development and was against the application.

Stevens said there had to be a drainage plan submitted and approved by DEQ so runoff did not go onto the neighbor's property.

Grieve said DNJ Subdivision was approved in 2001.

Emert asked to be recognized.

Hickey-AuClaire said a member of the board had to recognize him before he could speak.

Stevens asked Emert what he would like to say.

Emert asked what the relevance was when the subdivision had been approved.

Stevens explained when a subdivision was approved in Flathead County the roads were public roads even though the landowners maintained them.

**APPLICANT
REBUTTAL**

Breckenridge said as far as contaminants being pumped into the water system, the maintenance system was complex and would not tolerate contaminants being pumped into the system. The applicant did not want the property to look junky. The use of DNJ Lane would only be used on the applicant's property, not the neighbor's. The easement was created for residential use,

not commercial and that was why they proposed to place a chain across the road and did not anticipate it being used at all. They did not see any competing noise from the airport. The green space was a buffer to the neighboring property. They would not encroach on the proposed green space and should not affect the neighbor's property. They would not raise the property next to the neighbor who was concerned with flooding and make his property flood. Ground water monitoring was done in 2000, 2002 and 2008.

Calaway and Breckenridge discussed where the lots discussed were located off of DNJ, the size of the road easements and where possible fences would be located.

**STAFF
REBUTTAL**

Hogle displayed photographs showing DNJ Lane.

**BOARD
DISCUSSION**

None.

**MAIN MOTION
TO ADOPT
F.O.F.
(FPP 13-06)**

Heim made a motion seconded by Schlegel to adopt staff report FPP 13-06 as findings-of-fact.

**BOARD
DISCUSSION**

Stevens said the area was unzoned, if someone wanted to put a hotel/motel on the property all they would need to do was buy the 29 acres and put it up and no one could say anything about it. There could also be 29 one acre lots with approved septic systems and those would probably generate more noise than commercial uses. He was concerned with the run off problem, but the requirements from DEQ would address that issue. He did not have the ability to second guess DEQ concerning the aquifer. He did have a concern with chemicals in the septic system, but that had been addressed by the applicant. The way toxins were disposed of in the past was not the way they were disposed of now and there were agencies which would enforce proper disposal. He would vote in favor of the application unless he heard something in discussion which would persuade him otherwise.

Schlegel said he had dealt with DEQ before and they were very thorough. He had also been involved in the septic system which was planned for the property and it was an amazing system with very clean water as the end result. The Flathead County Health

Department would address anything with chemicals. The DEQ was very particular about groundwater and contamination of groundwater. When DEQ approved something, in his experience, everything had been taken into account and was appropriate.

Calaway said there were businesses which recycled chemicals. The way waste used to be disposed of was not the way it was disposed of now.

Stevens said public comment relating to the aquifer was due to overdevelopment in Evergreen before there were any regulations on septic systems or drain fields. That type of contamination was unlikely now.

Hickey-AuClaire said what was unique about this application was they had already obtained approval from DEQ.

**ROLL CALL TO
ADOPT F.O.F.
(FPP 13-06)**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

None.

**MAIN MOTION
TO
RECOMMEND
APPROVAL OF
CONDITIONS
(FPP 13-06)**

Schlegel made a motion seconded by Heim to adopt Staff Report FPP 13-06 and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

Hickey-AuClaire and Breckenridge discussed the internal road ways and how they would be used.

Hogle clarified where the recommendation for road width came from.

Schlegel said it was virtually impossible for the board to condition fencing.

Hogle clarified the board did have the ability to condition fencing in a zoned area and when that condition would be triggered.

Hickey-AuClaire clarified there would be either a gate or chain across the applicant's property where the easement to DNJ Lane

was located.

**ROLL CALL TO
RECOMMEND
APPROVAL OF
(FPP 13-06)**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Hickey-AuClaire reviewed the process the application would follow from this point on.

**EAGLE CREEK
LLC
(FZC 13-04)**

A Zone Change request in the Blanchard Lake Zoning District by Eagle Creek, LLC. The proposal would change the zoning on 39.8 acres from AG-20 (Agricultural) to SAG-10 (Suburban Agricultural). The property is located at 125 Studebaker Lane.

STAFF REPORT

Hogle reviewed Staff Report FZC 13-04 for the Board.

**BOARD
QUESTIONS**

Heim and Hogle discussed if any of the other existing subdivisions in the area would have to comply with the Whitefish City-County Master Plan, parcel sizes and uses in the area. The Whitefish City-County Master Plan was not a regulatory document.

Staff and the board discussed how the findings addressed the issue with the Master Plan.

Stevens and Hogle discussed where the entrance to the subdivision was located.

The board and staff discussed if the zoning was compatible with existing zoning in the area, how the zoning related to the Whitefish area, if Whitefish had been solicited for comment on the application, how far the property was from the Whitefish jurisdiction, where the boundary of the old Whitefish City-County Master Plan was, how these plans worked together and which was the applicable plan.

**APPLICANT
PRESENTATION**

Eric Mulcahy, Sands Surveying, 2 Village Loop, commended staff on their report and agreed with the findings. He gave the history of the plans which were cited in the staff report. The property, at 39+ acres, with the current zoning did not allow the applicants to subdivide the property. The access was great; they had several existing subdivisions around the property, and the applicants had been working on thinning the property. He thanked the board for their consideration.

**BOARD
QUESTIONS**

Schlegel and Mulcahy discussed access to the property.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

Stephen Isley, 74 Eagle Creek Trail, was for the application.

Stevens and Isley discussed if he knew it was a zoned property when he purchased the property.

**APPLICANT
REBUTTAL**

None.

**STAFF
REBUTTAL**

None.

**MAIN MOTION
TO ADOPT
F.O.F.
(FZC 13-04)**

Stevens made a motion seconded by Calaway to adopt staff report FZC 13-04 as findings-of-fact.

**BOARD
DISCUSSION**

Calaway did not think the zone change was a large change in zoning.

Bodman agreed with Calaway. He had some concern with spot zoning, but that was taken care of with the other lots being smaller in size.

Larsen commended staff on the report.

Calaway said SAG-10 was appropriate because the acreage was 39+ acres so the applicant was unable to apply for a SAG-20 zoning designation. These problems happen all the time.

Heim said a permitted use in SAG-10 which was not allowed in SAG-20 was a publicly owned recreational facility.

The board and staff discussed what constituted a publicly owned recreational facility, permitted uses and conditional uses.

**ROLL CALL TO
ADOPT F.O.F.
(FZC 13-04)**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
TO
RECOMMEND
APPROVAL OF
CONDITIONS
(FZC 13-04)**

Stevens made a motion seconded by Calaway to adopt Staff Report FZC 13-04 and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
RECOMMEND
APPROVAL OF
(FZC 13-04)**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Hickey-AuClaire reviewed the process the application would follow from this point on.

The board took a 10 minute break.

**VARIOUS TEXT
AMENDMENTS
(FZTA 13-01)**

A request by the Flathead County Planning Board for ten amendments to the text of the Flathead County Zoning Regulations (regulations) to improve the practicality of administration and enforcement of the regulations. The general character of the specific proposed amendments is:

Add 'Cellular Tower' to the list of conditional uses as an administrative conditional use in the 'NF North Fork' zoning district Section 3.40.030 because Section 3.40.040(7) currently states, 'Cellular Tower – Administrative Conditional Use Permit' and 'Cellular Tower' was not previously listed as a conditional use.

1. Clarify the use of livestock in Agricultural and Suburban Agricultural zoning districts, amend the regulations by adding 'Livestock' to the list of permitted use in AG-80, AG-40, AG-20, SAG-10 and SAG-5 zoning districts, found in Sections 3.04, 3.05, 3.06, 3.07 and 3.08 because livestock is listed as a permitted use in R-1 and R-2.5 but not listed in AG and SAG zones.
2. Clarify the use of stables, public versus private in Agricultural and Suburban Agricultural zoning districts, amend the regulations by removing 'Stable' from 'Stable, riding academy, rodeo arena' and adding 'Stable, public and private' to the list of permitted use in AG-80, AG-40,

AG-20, SAG-10 and SAG-5 zoning districts, found in Sections 3.04, 3.05, 3.06, 3.07 and 3.08.

3. Changes to restrictions on timing of posting of political signs on all private property in Section 5.11.010(8) based on court decisions regarding political signs. The size of a sign can be regulated but the duration of a sign cannot be regulated.
4. Regarding 'Street and Roadway Standards,' amend the regulations by striking the reference to 'Approach Standards for Montana Highways' in Section 6.16.010 and replacing it with 'Montana Department of Transportation or Flathead County Road and Bridge Department' because the regulations currently reference highway standards but access to a lot may not be via a highway.
5. Regarding 'Increase yard requirements,' amend the regulations by striking the reference to County Master Plan or City-County Master Plan found in Sections 3.04.040(3)(D), 3.05.040(3)(D), 3.06.040(3)(D), 3.07.040(3)(D), 3.08.040(3)(D), 3.09.040(3)(D), 3.10.040(3)(D), 3.11.040(3)(D), 3.12.040(3)(D), 3.13.040(3)(D), 3.14.040(3)(D), 3.15.040(3)(D), 3.16.040(4)(C), 3.17.040(3)(C), 3.18.040(4)(C), 3.19.040(4)(C), 3.20.040(4)(E), 3.21.040(4)(C), 3.22.040(4)(C), 3.27.040(3)(C), 3.29.040(3)(C), and 3.30.040(3)(C), and replacing it with Flathead County Road Classification Map because the map is the most up to date road classification for the County.
6. Regarding reference to 'Master Plan' in Sections 1.02.010, 2.02.040, 3.01.010, 3.31.023(3)(A) and 3.39.110, amend the regulations by striking all reference to 'Master Plan' and replacing it with 'Growth Policy' because the Flathead County Growth Policy has replaced the Flathead County Master Plan.
7. Regarding conditional use standards and the definition of a 'Caretaker's Facility,' amend the regulations by striking 'principal dwelling' and replacing it with 'principal use' in Section 4.04.010 and 7.04.025 because there are other uses besides dwelling that could require a caretaker.
8. Regarding performance standards for a 'Caretaker's Facility,' amend the regulations by striking all references to deed restrictions in Section 4.04.010(4), based on the

Planning Board's request to staff to remove the deed restriction at a Planning Board workshop on August 28, 2013.

9. Regarding 'Setbacks' in Residential Clustering, amend the regulations by striking 'at least 40 feet from any other boundary of the "parent" tract or adjacent property(ies);' and replacing it with 'otherwise conform to the minimum setbacks of the district;' in Sections 3.04.040(3), 3.05.040(3), 3.06.040(3), 3.07.040(3), 3.08.040(3) and 5.09.030(7) based on the Planning Board's request to staff to reduce the 'setback' requirement at a Planning Board workshop on August 28, 2013.

STAFF REPORT Grieve reviewed Staff Report FZTA 13-01 for the Board and clarified questions from the board as they arose.

PUBLIC COMMENT Grieve said the only written public comment was from Citizens For a Better Flathead which originally was on a similar topic but relevant to the application.

There was no public present.

MAIN MOTION TO ADOPT F.O.F. (FZTA 13-01) Larsen made a motion seconded by Heim to adopt staff report FZTA 13-01 as findings-of-fact.

BOARD DISCUSSION The board briefly discussed which findings needed to be amended.

SECONDARY MOTION TO (Amend F.O.F. #35) Bodman made a motion seconded by Hickey-AuClaire to amend finding of fact #35 to read:

Finding #35: The proposed amendment is generally not in compliance with ~~the LaBrant Lindsey Neighborhood Plan or the Rogers Lake Neighborhood Plan~~ because it ~~could allow for increased density as there is no timeframe for lengths of stay in a caretaker's facility, it could create more opportunities to utilize this provision and~~ does not meet the definition of caretaker's facility in the Rogers Lake Neighborhood Plan.

BOARD DISCUSSION None.

**ROLL CALL TO
(Amend F.O.F.
#35)**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

None.

**SECONDARY
MOTION TO
(Strike F.O.F.
#42)**

Bodman made a motion seconded by Stevens to strike finding-of-fact #42.

**ASK THE
QUESTION**

Schlegel asked the question.

**ROLL CALL TO
(Strike F.O.F.
#42)**

On a roll call vote the motion passed unanimously.

**SECONDARY
MOTION TO
(Revise Section
6.16.010)**

Bodman made a motion seconded by Larsen to revise Section 6.16.010 as follows:

6.16.010 Access to businesses, service stations, roadside stands, public parking lots and all other businesses requiring motor vehicle access shall meet the requirements as hereinafter provided or as ~~prescribed by applicable of the Approach Standards for Montana Highways Montana Department of Transportation or Flathead County Road and Bridge Department~~ (whichever requirements are ~~greater~~ more stringent).

**BOARD
DISCUSSION**

None.

**ASK THE
QUESTION**

Schlegel asked the question.

**ROLL CALL TO
(Revise Section
6.16.010)**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Grieve checked procedure.

**ROLL CALL TO
ADOPT F.O.F.
(FZTA 13-01)**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
TO
RECOMMEND
APPROVAL OF
(FZTA 13-01)**

Larsen made a motion seconded by Schlegel to adopt Staff Report FZTA 13-01 as amended and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

Stevens wanted to thank staff who drafted the staff report.

Grieve said he would pass the compliment to Eric Mack.

The board briefly discussed the length of the report.

**ROLL CALL TO
RECOMMEND
APPROVAL OF
(FZTA 13-01)**

On a roll call vote the motion passed unanimously.

OLD BUSINESS

Grieve explained why the public had commented on wedding venues during public comment at the beginning of the meeting. It was for the public to share their opinion on issues.

The board and Grieve discussed if there had been any text amendment applications submitted by either side of the issue and the cost of an application. They discussed at length what the public expected to achieve by coming before the board. They also briefly discussed what would be involved in a text amendment for a wedding facility and if the issue was county wide or a civil matter. They also talked about vacation rentals by owner (VRBO), what qualified for VRBO and issues with VRBO.

NEW BUSINESS

Grieve said the office had submitted a request to the Commissioners for a full time Planner I. The fee generating workload was up, fees were up substantially and staff was busy. The office wanted to be prepared for an upcoming building spike and the possible acclamation of the Whitefish Donut area. The Commissioners had said the request for a Planner I appeared to be warranted. There was fee revenue to cover a good portion of a new full time employee. He could not guarantee the trend would continue.

The Lakeshore Seminar was a success. A good cross-section of people was in attendance.

Stevens and Grieve discussed the progress of the Evergreen Enterprise Overlay.

ADJOURNMENT The meeting was adjourned at approximately 9:20 pm. on a motion by Schlegel. The next meeting will be held at 6:00 p.m. on March 12, 2014.

Marie Hickey-AuClaire, Chairman

Donna Valade, Recording Secretary

*APPROVED AS **SUBMITTED**/CORRECTED: 3 / 12 / 14*